

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-24 are pending in the present Application. By the present amendment, Claims 1, 9, 10, and 17 have been amended. No new matter is added.

Claims 9-16 are rejected under 35 U.S.C. § 102(e) (hereinafter, "Section 102(e)") as being allegedly anticipated by U.S. Pat. No. 6,606,298 to Foltak (hereinafter "Foltak").

Claims 1-8 are rejected under 35 U.S.C. § 103(a) (hereinafter, "Section 103(a)") as being allegedly unpatentable over Foltak in view of Xu et al., U.S. Pat. No. 6,151,628 to (hereinafter "Xu").

Claims 17-24 are rejected under Section 103(a) as being allegedly unpatentable over Foltak in view of Xu and further in view of Hoff et al., U.S. Pat No. 5,978,373 (hereinafter "Hoff").

Applicant respectfully traverses all rejections and requests reconsideration of the subject application as amended herein.

II. REJECTIONS UNDER 102(e), FOLTAK

Applicant respectfully submits that independent claim 9 and its dependent claims 10-16 are novel, as they are not anticipated by Foltak.

Amended claim 9 recites in part "periodically checking availability of a second device management software by *said device requesting and receiving a version code of said second device management software through said network* and comparing a version of said second device management software against a version of said first device management software..."

Support for the amendment is found in paragraph [0071] of Applicant's specification (see "the access point 143...requests and receives a version code from the server indicating the current

version 167 of access point 143 management software loaded into the memory 161 of the server 153"). In contrast to Examiner's assertion, Foltak fails to teach each and every element of claim 9. Foltak discloses a system for recovery in detail and generally adds that upgrade is possible. Any reference to an upgrade is a general definition of replacing an out-dated software by a different code such as a new and improved version. Such a definition of an "upgrade" is apparent, however, a definition has not been shown to teach the particular elements of Applicant's method of maintaining software. Claim 9 has been amended and particularly claims the method step of "said device requesting and receiving a version code of said second device management software through said network and comparing the version of said second device management software against a version of said first device management software".

At most, Foltak teaches a recovery after 1) failure of a system-initiated test which determines if the modem is functioning properly; or 2) a device fails to negotiate a communication protocol a numerous consecutive amount of time. (Foltak, Col. 9, lines 42-62; Col. 10, lines 34-48; Col.12, lines 34-57). However, the cited language in Foltak with regard to an upgrade, merely provides a definition of an upgrade, i.e. current software is outdated and determining an upgrade is needed. There is no where discussed the claimed "device requesting and receiving a version code of said second device management software through said network...". The discussed upgrade in Foltak has only been generally described as "determining a module needs an upgrade" and any detail is in relation to a process of determining a "bad" device needs recovery, which have not been demonstrated to show the method of maintaining software as recited in Applicant's claim 9.

As such, Foltak fails to teach or suggest each and every limitation of amended claim 9. Accordingly, amended claim 9 is believed to be allowable over Foltak and Applicant respectfully requests withdrawal of the rejection of claim 9 under Section 102(e).

#### DEPENDENT CLAIMS 10-16

Claim 10-16 depend directly or indirectly on independent claim 9 and thereby include all the limitations of amended claim 9, along with additional limitations. In particular, claim 10 has been amended to recite in part “further comprising inputting upgrade data to a server from a computer, said data for installing and storing said second device management software in said server, *said server in communication with said device through said network, and said server providing said version code of the stored second device management software to said device in response to receiving the request for said version code from said device.*”

(Supported by paragraph [0071]). However, Foltak does not anywhere discuss the recited method of a server providing a version code to the access device through the network *in response to receiving a request from the device for the version code* of the software stored that is stored in the server, and comparing the versions. Such method steps are not taught by Foltak, thereby claim 10 is not anticipated by Foltak.

In addition, claim 12 recites, “A method as recited in claim 10 further comprising first authenticating an identity of said server to said device.” Examiner cites to Foltak col. 7 line 37-col. 8 line 60 as teaching this claim. However, in reviewing the cited language, it is not apparent where “authenticating an identify of said server to said device” is found. Foltak discusses at most, “the end-user device (e.g. ...the PC 12) and the NAS processor begin to negotiate higher level functions such as authentication”. However, this “end-user device” is in no manner the equivalent of the “device” of claim 12 which undergoes maintenance. If

Examiner is equating Foltak's upgrade or recovery of its DSPs to the maintenance of the access device in Claim 12, then there is simply no teaching of "authenticating an identity of said server to said device".

Moreover, claim 13 recites, "A method as recited in claim 12 further comprising second authenticating an identity of said device to said server." Examiner cites to Foltak in Col. 5 line 52 – Col. 6 line 5, and Col. 8 lines 42-60 as teaching the claim. Similarly, Applicant respectfully disagrees after reviewing the cited passages which are devoid of any authenticating. The cited section describes when recovery or upgrading is needed, the NAS processor initiates downloading of a data file of the DSP software to a DSP device. Again, there is no teaching of "authenticating an identity of said device to said server".

Accordingly, for these additional reasons, there is no teaching or suggestion in Foltak of the required limitations in claims 10-13. Claims 10-16 are believed to be allowable for at least the same reasons as amended claim 9. Applicant respectfully requests withdrawal of the rejections of claims 10-16 under Section 102(e).

### III. REJECTIONS UNDER 103(a), FOLTAK IN VIEW OF XU

Applicant respectfully submits that the amended claim 1 and its dependent claims 2-8 are novel and patentable over Foltak in view of Xu. The cited references in combination do not teach each and every element of these claims as required for a *prima facie* case of obviousness.

Amended claim 1 recites in part, "(ii) software loading apparatus for automatically loading second software through said network for replacing said first software, *said device configured to request and receive a version code of said second software through said network* and directly begins loading upon checking that said first software requires

replacement due to a comparison determining the first software contains code that is different from the second software, without manual maintenance by a user such that the access point device is self-maintaining.”

The arguments above with respect to claim 9, apply here to claim 1, in that Foltak fails to teach each and every claimed limitation of amended claim 1.

Applicant has reviewed the cited sections of the Action regarding Foltak, and there is no teaching or suggestion of ALL the limitations of amended claim 1 to find a *prima facie* of obviousness. Neither does Xu provide for the deficiencies of Foltak. Accordingly, for the reasons stated above, amended claim 1 is believed to be allowable over Foltak in view of Xu. Applicant respectfully requests withdrawal of the rejection of claim 1 under Section 103(a).

#### DEPENDENT CLAIMS 2-8

Claims 2-8 depend directly or indirectly on independent claim 1 and thereby include all the limitations of amended claim 1, along with additional limitations. Accordingly, claims 2-8 are believed to be allowable for at least the same reasons as amended claim 1 and also for the limitations these claims recite. For instance, claim 3 recites in part, a “version checker apparatus for checking a version of said second software against a version of said first software.” Foltak does not teach such a limitation and again, only describes devices recovered or updated by determining “bad” devices which failed condition and generally states “when there is a need for upgrading”, downloading an up-to-date version of software. Such language does not equate to the access point device having a version checker apparatus in which the device is “configured to request and receive a version code of said second software through said network”. Neither does Xu provide for these limitations. Accordingly,

for at least these reasons, claims 2-8 are believed patentable and Applicant respectfully requests withdrawal of the rejections of claims 2-8 under Section 103(a).

#### IV. REJECTIONS UNDER SECTION 103(a), FOLTAK, XU AND HOFF

Applicant respectfully submits that the amended independent claim 17 and its dependent claims 18-24 are novel and patentable. The cited references in combination do not teach each and every element of these claims as required for a *prima facie* case of obviousness.

Claim 17 is amended to recite in part, (b) user authorization server apparatus for authorizing a mobile user to access the communication network through said access point device and said source network in which the mobile user is authorized through one or more embedded IDs generated *by said source network* into an embedded reserved field of a file..."

Support for the amendment is found in paragraph [0057].

Foltak, Xu and Hoff fail to teach of "the mobile user is authorized through one or more *embedded* IDs generated by said source network into an *embedded reserved field* of a file". Contrary to Examiner's assertion that Hoff teaches this element, in reviewing the cited reference, Hoff actually does not teach of any "embedded IDs" let alone of "embedded reserved field" since Hoff merely teaches what is known as a "registration template" of "fill-in-the blanks online registration template" (col. 7 lines 17-19). These subscriber filled fields are in no manner "**embedded** reserved field" as claimed in claim 17. Nothing is embedded regarding this fill in the blanks fields in which the subscriber fills in the template fields. These fields in Hoff are akin to a user filling in their ID and password on a webpage. Neither is the "embedded ID generated by said source network" taught in Hoff. A subscriber entering their ID into a form field does not correlate to "the source network" generating anything into an

embedded reserved field of a file. There is nowhere in taught or suggested of “embedded reserved field” nor of “embedded IDs generated by said source network” by a subscriber filled template.

Applicant has reviewed the cited sections of the Action, and there is no teaching or suggestion of ALL the limitations of amended claim 17 to find a *prima facie* of obviousness. Accordingly, for the reasons stated above, amended claim 17 is believed to be allowable over Foltak in view of Xu and further in view of Hoff. Applicant respectfully requests withdrawal of the rejection of claim 17 under Section 103(a).

#### **DEPENDENT CLAIMS 18-24**

Claims 18-24 depend directly or indirectly on independent claim 17 and thereby include all the limitations of amended claim 17, along with additional limitations. Accordingly, Claims 18-24 are believed to be allowable for at least the same reasons as amended claim 17. Applicant respectfully requests withdrawal of the rejections of claims 18-24 under Section 103(a).

#### **Conditional Request For Constructive Assistance**

Applicant has made a diligent effort to amend the claims of this application so that they define novel and unobvious structure. If, for any reason, the Examiner believes that the claims of this application are not yet in full condition for allowance, applicant respectfully requests his constructive assistance and suggestions pursuant to the spirit of MPEP § 2173.02 and § 707.07(j). This will enable the undersigned to place this application in fully allowable condition as soon as possible and without the need for further proceedings. The Examiner is authorized to make any needed minor corrections or changes.

V. CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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